

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LEXINGTON INSURANCE COMPANY,

Plaintiff,

-against-

TOKIO MARINE & NICHIDO FIRE INSURANCE
COMPANY LIMITED, as successor to NICHIDO FIRE
& MARINE INSURANCE COMPANY LIMITED,

Defendant.

Civil Action No. 11-0391
(DAB)

NOTICE OF PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS
WITH RESPECT TO ITS FIRST CAUSE OF ACTION

PLEASE TAKE NOTICE THAT, upon the accompanying Memorandum of Law, Plaintiff Lexington Insurance Company ("Lexington") shall move this Court at Courtroom 24B of the United States Courthouse, 500 Pearl Street, New York, New York, 10007, at a date and time to be determined, for judgment on the pleadings with respect to its First Cause of Action pursuant to Rule 12 (c) of the Federal Rules of Civil Procedure, seeking an order: (i) declaring that Lexington's coverage obligations under the First and Second Excess Binders are not contingent upon exhaustion of the per-occurrence limit of the underlying policy; (ii) alternatively, declaring that the Port Authority of New York and New Jersey's release of all claims for underlying coverage constitutes exhaustion of the per-occurrence limit of the underlying policy; and (iii) providing such other and further relief as the Court deems just and proper.

Dated: May 4, 2011

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